



## Department of Health

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

NOV 24 2015

National Institutional Reimbursement Team  
Attention: Mark Cooley  
CMS, CMCS  
7500 Security Boulevard, M/S S3-14-28  
Baltimore, MD 21244-1850

Re: SPA #15-0012  
Inpatient Hospital Services

Dear Mr. Cooley:

The State requests approval of the enclosed amendment #15-0012 to the Title XIX (Medicaid) State Plan for inpatient hospital services to be effective October 1, 2015 (Appendix I). This amendment is being submitted based upon State Law and to comply with Federal requirements. A summary of the proposed amendment is contained in Appendix II.

This amendment is submitted pursuant to §1902(a) of the Social Security Act (42 USC 1396a(a)) and Title 42 of the Code of Federal Regulations (CFR), Part 447, Subpart C.

Notice of the changes in the methods and standards for setting payment rates for general hospital inpatient services were given in the New York State Register on September 9, 2015.

Copies of pertinent sections of enacted State statute are enclosed for your information (Appendix III). In addition, responses to the five standard funding questions are also enclosed (Appendix V).

If you have any questions regarding this matter, please do not hesitate to contact John E. Ulberg, Jr., Medicaid Chief Financial Officer, Division of Finance and Rate Setting, Office of Health Insurance Programs at (518) 474-6350.

Sincerely,

  
Jason A. Helgerson  
Medicaid Director  
Office of Health Insurance Programs

Enclosures  
cc: Mr. Michael Melendez  
Mr. Tom Brady

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>		1. TRANSMITTAL NUMBER: <b>15-0012</b>	2. STATE <b>New York</b>
FOR: HEALTH CARE FINANCING ADMINISTRATION		3. PROGRAM IDENTIFICATION: <b>TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>	
		4. PROPOSED EFFECTIVE DATE <b>October 1, 2015</b>	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES			
5. TYPE OF PLAN MATERIAL (Check One):  <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: <b>§1902(a) of the Social Security Act, and 42 CFR 447</b>		7. FEDERAL BUDGET IMPACT: (in thousands) a. FFY 10/01/15-09/30/2016 \$ 0.00 b. FFY 10/01/16-09/30/2017 \$ 0.00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>Attachment 4.19-A: 120(b)(iii), 120(b)(3)</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  <b>Attachment 4.19-A: 120(b)(iii), 120(b)(3)</b>	
10. SUBJECT OF AMENDMENT: <b>ICD-10 - Inpatient (FMAP = 50%)</b>			
11. GOVERNOR'S REVIEW (Check One): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL:		16. RETURN TO: <b>New York State Department of Health Division of Finance and Rate Setting 99 Washington Ave – One Commerce Plaza Suite 1460 Albany, NY 12210</b>	
13. TYPED NAME: <b>Jason A. Helgerson</b>			
14. TITLE: <b>Medicaid Director Department of Health</b>			
15. DATE SUBMITTED: <b>NOV 24 2015</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED:		18. DATE APPROVED:	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL:		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME:		22. TITLE:	
23. REMARKS:			

**Appendix I**  
**2015 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Amended SPA Pages**



**New York  
120(b)(iii)**

**Payment Calculation.**

1. An average hospital specific payment will be used to compute the total Medicaid operating payments, excluding behavioral health, associated with the risk adjusted excess readmissions in each hospital.
2. The Medicaid case payment rate for the applicable rate period shall be used to compute the total Medicaid operating payments for all non-behavioral health Medicaid discharges in each hospital.
3. For each hospital, a hospital specific readmission adjustment factor shall be computed as the ratio of the hospital's total Medicaid operating payments for the applicable rate period associated with the risk adjusted excess readmissions identified in the Methodology Section and the hospital's total Medicaid operating payments for the same rate period for all non-behavioral health Medicaid discharges in each hospital as determined pursuant to this Section.
4. Non-behavioral health related Medicaid operating payments to hospitals shall be reduced by applying the hospital specific readmission adjustment factor from this Section to the applicable case payment or per-diem payment amount for all non-behavioral health related Medicaid discharges for each hospital.
5. International Classification of Diseases, 10<sup>th</sup> Revision-Clinical Modification (ICD-10-CM) is a comprehensive coding system maintained by the federal Centers for Medicare and Medicaid Services in the U.S. Department of Health and Human Services. It is maintained for the purpose of providing a standardized, universal coding system to identify and describe patient diagnosis, symptoms, complaints, condition and/or causes of injury or illness.

TN   #15-0012  

Supersedes TN   #11-0082  

Approval Date \_\_\_\_\_

Effective Date \_\_\_\_\_

**New York  
120(b)(3)**

**Attachment 4.19-A  
(07/10)**

- [4. Non-behavioral health related Medicaid operating payments to hospitals shall be reduced by applying the hospital specific readmission adjustment factor from this Section to the applicable case payment or per-diem payment amount for all non-behavioral health related Medicaid discharges for each hospital.]

**TN #15-0012** \_\_\_\_\_

**Approval Date** \_\_\_\_\_

**Supersedes TN #10-0021** \_\_\_\_\_

**Effective Date** \_\_\_\_\_

**Appendix II**  
**2015 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Summary**

**SUMMARY**  
**SPA #15-0012**

This State Plan Amendment proposes to implement the International Classification of Diseases Version 10 (ICD-10) for inpatient services.

**Appendix III**  
**2015 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Authorizing Provisions**



**15-0012**

**Public Health Law § 2807-c(35)(j)**

(j) Notwithstanding any contrary provision of law, with regard to inpatient and outpatient Medicaid rates of payment for general hospital services, the commissioner may make such adjustments to such rates and to the methodology for computing such rates as is necessary to achieve no aggregate, net increase or decrease in overall Medicaid expenditures related to the implementation of the International Classification of Diseases Version 10 (ICD-10) coding system on or about October first, two thousand fourteen, as compared to such aggregate expenditures from the twelve-month period immediately prior to such implementation.

**Appendix IV  
2015 Title XIX State Plan  
Fourth Quarter Amendment  
Public Notice**

# MISCELLANEOUS NOTICES/HEARINGS

## Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311  
or visit our web site at:  
[www.osc.state.ny.us](http://www.osc.state.ny.us)

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

## PUBLIC NOTICE Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for institutional services to comply with enacted statutory provisions included in Public Health Law § 2826. The following changes are proposed:

The following is a clarification to the February 25, 2015 noticed provision for the temporary rate adjustment for the Critical Access Hospitals, (CAH's). The enacted CAH allocation has been increased to \$7.5 million from \$5 million annually for the period of April 1, 2015 through March 31, 2017. The original notice also included 17 CAHs, however Medina Memorial Hospital has been added for a total of 18 recipients. As previously noticed, these payments will also be made to the following: Carthage Area Hospital, Catskill Regional Medical Center-Hermann, Clifton-Fine Hospital, Community Memorial Hospital, Cuba Memorial Hospital, Delaware Valley Hospital, Elizabethtown Community Hospital, Ellenville Regional Hospital, Gouverneur Hospital, Lewis County General Hospital, Little Falls Hospital, Margaretville Hospital, Moses Ludington Hospital, O'Connor Hospital, River Hospital, Schuyler Hospital, Soldiers and Sailors Memorial Hospital of Yates, Co as well as Medina Memorial Hospital. This provision is now effective on or after October 1, 2015.

The estimated annual net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for state fiscal year 2015/2016 is \$2,500,000 and for 2016/17 is \$2,500,000.

The public is invited to review and comment on this proposed State Plan Amendment. Copies of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status).

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

For the New York City district, copies will be available at the following places:

New York County  
250 Church Street  
New York, New York 10018

Queens County, Queens Center  
3220 Northern Boulevard  
Long Island City, New York 11101

Kings County, Fulton Center  
114 Willoughby Street  
Brooklyn, New York 11201

Bronx County, Tremont Center  
1916 Monterey Avenue  
Bronx, New York 10457

Richmond County, Richmond Center  
95 Central Avenue, St. George  
Staten Island, New York 10301

*For further information and to review and comment, please contact:*  
Department of Health, Bureau of Federal Relations & Provider Assessments, 99 Washington Ave. – One Commerce Plaza, Suite 1460, Albany, NY 12210, or e-mail: [spa\\_inquiries@health.ny.gov](mailto:spa_inquiries@health.ny.gov)

## PUBLIC NOTICE Department of Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for institutional and non-institutional services to comply with Federal requirements per the U.S. Department of Health and Human Services final rule. The following changes are proposed:

### Institutional and Non-Institutional Services

The International Classification of Diseases Version 10 (ICD-10) will be implemented effective for hospital inpatient and outpatient services, freestanding diagnostic and treatment center services, and freestanding ambulatory surgery services beginning October 1, 2015. Effective as of this date, the Commissioner may make adjustments to inpatient and outpatient Medicaid rates of payment for these services, and to the methodology for computing such rates, as is necessary to achieve no aggregate net growth, by service, in overall Medicaid expenditures, related to its implementation, as compared to such by service expenditures from the period immediately prior to such implementation.

There is no additional estimated annual change to gross Medicaid expenditures as a result of the proposed amendment.

The public is invited to review and comment on this proposed State Plan Amendment. Copies of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status).

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

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114 Willoughby Street  
Brooklyn, New York 11201

Bronx County, Tremont Center  
1916 Monterey Avenue  
Bronx, New York 10457

Richmond County, Richmond Center  
95 Central Avenue, St. George  
Staten Island, New York 10301

*For further information and to review and comment, please contact:*  
Department of Health, Division of Finance and Rate Setting, 99  
Washington Ave. – One Commerce Plaza, Suite 1460, Albany, NY  
12210, or e-mail: [spa\\_inquiries@health.ny.gov](mailto:spa_inquiries@health.ny.gov)

**PUBLIC NOTICE**

Department of State  
Routine Program Change

STATEWIDE — Pursuant to 15 CFR 923.84(b)(4), the New York State Department of State (DOS) hereby gives notice that the National Oceanic and Atmospheric Administration’s Office for Coastal Management (OCM) concurred on August 21, 2015 on the incorporation of the amendment to the Town of Penfield Local Waterfront Revitalization Program (LWRP) into New York State’s Coastal Management Program as a Routine Program Change. DOS requested OCM’s concurrence on this action on June 17, 2015, in a previous notice in the New York State Register, which further described the content of the action.

The amendment to the Town of Penfield LWRP was prepared in partnership with DOS and in accordance with the New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Act and the New York State Coastal Management Program. The LWRP is a long-term intermunicipal management program for the Town’s waterfront resources along the Irondequoit Creek and Bay, and is based on the policies of the New York State Coastal Management Program. And, the amended LWRP serves to update the original Town of Penfield LWRP approved in 1991, which now is withdrawn. The Town of Penfield LWRP includes a comprehensive description of the existing and proposed land uses in the waterfront revitalization area, incorporates a harbor management plan, and identifies the next generation of waterfront revitalization projects.

Pursuant to the New York State Coastal Management Program and Article 42 of the New York State Executive Law, the amendment to the Town of Penfield LWRP was adopted by resolution by the Town of Penfield Town Board on March 4, 2015, and approved by the New York State Secretary of State on May 26, 2015. Federal Consistency with the Town of Penfield LWRP applies as of the date of this Notice.

OCM’s concurrence includes the following approved changes to the Town of Penfield LWRP:

Name/Description of State or Local Law Regulation/Policy/Program Authority or Change	State/Local Legal Citation	Date Adopted by State	Date Effective in State
ADDED:			
*Town of Penfield LWRP	*Section I, II, IV, V, VI, VII, and Appendices A-D	5/26/2015	5/26/2015
Town of Penfield LWRP	Section III, Policies 1-13 (note: explanatory text included in Section III is not applicable as enforceable policies for CZMA federal consistency review purposes)	5/26/2015	5/26/2015
DELETED:			
Town of Penfield LWRP (1991)	Town of Penfield LWRP (1991)	10/28/1991	10/28/1991

Changes marked with an asterisk (\*) are incorporated into the NEW YORK COASTAL MANAGEMENT PROGRAM, but do not contain enforceable policies that can be used for Federal Consistency.

The Town of Penfield Local Waterfront Revitalization Program is available at: [http://www.dos.ny.gov/opd/programs/WFRevitalization/LWRP\\_status.html](http://www.dos.ny.gov/opd/programs/WFRevitalization/LWRP_status.html), the website of the New York State Department of State. If you have any questions, please contact Renee Parsons, Department of State, One Commerce Plaza, Suite 1010, Albany, NY 12231, (518) 473-2461.

**Appendix V**  
**2015 Title XIX State Plan**  
**Fourth Quarter Amendment**  
**Responses to Standard Funding Questions**



**APPENDIX V  
HOSPITAL SERVICES  
State Plan Amendment #15-0012**

**CMS Standard Funding Questions (NIRT Standard Funding Questions)**

**The following questions are being asked and should be answered in relation to all payments made to all providers under Attachment 4.19-A of your state plan.**

- 1. Section 1903(a)(1) provides that Federal matching funds are only available for expenditures made by States for services under the approved State plan. Do providers receive and retain the total Medicaid expenditures claimed by the State (includes normal per diem, supplemental, enhanced payments, other) or is any portion of the payments returned to the State, local governmental entity, or any other intermediary organization? If providers are required to return any portion of payments, please provide a full description of the repayment process. Include in your response a full description of the methodology for the return of any of the amount or percentage of payments that are returned and the disposition and use of the funds once they are returned to the State (i.e., general fund, medical services account, etc.)**

**Response:** Providers do retain the payments made pursuant to this amendment. However, this requirement in no way prohibits the public provider, including county providers, from reimbursing the sponsoring local government for appropriate expenses incurred by the local government on behalf of the public provider. The State does not regulate the financial relationships that exist between public health care providers and their sponsoring governments, which are extremely varied and complex. Local governments may provide direct and/or indirect monetary subsidies to their public providers to cover on-going unreimbursed operational expenses and assure achievement of their mission as primary safety net providers. Examples of appropriate expenses may include payments to the local government which include reimbursement for debt service paid on a provider's behalf, reimbursement for Medicare Part B premiums paid for a provider's retirees, reimbursement for contractually required health benefit fund payments made on a provider's behalf, and payment for overhead expenses as allocated per federal Office of Management and Budget Circular A-87 regarding Cost Principles for State, Local, and Indian Tribal Governments. The existence of such transfers should in no way negate the legitimacy of these facilities' Medicaid payments or result in reduced Medicaid federal financial participation for the State. This position was further supported by CMS in review and approval of SPA 07-07C when an on-site audit of these transactions for New York City's Health and Hospitals Corporation was completed with satisfactory results.

2. **Section 1902(a)(2) provides that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan. Please describe how the state share of each type of Medicaid payment (normal per diem, supplemental, enhanced, other) is funded. Please describe whether the state share is from appropriations from the legislature to the Medicaid agency, through intergovernmental transfer agreements (IGTs), certified public expenditures (CPEs), provider taxes, or any other mechanism used by the state to provide state share. Note that, if the appropriation is not to the Medicaid agency, the source of the state share would necessarily be derived through either an IGT or CPE. In this case, please identify the agency to which the funds are appropriated. Please provide an estimate of total expenditure and State share amounts for each type of Medicaid payment. If any of the non-federal share is being provided using IGTs or CPEs, please fully describe the matching arrangement including when the state agency receives the transferred amounts from the local government entity transferring the funds. If CPEs are used, please describe the methodology used by the state to verify that the total expenditures being certified are eligible for Federal matching funds in accordance with 42 CFR 433.51(b). For any payment funded by CPEs or IGTs, please provide the following:**
- (i) a complete list of the names of entities transferring or certifying funds;**
  - (ii) the operational nature of the entity (state, county, city, other);**
  - (iii) the total amounts transferred or certified by each entity;**
  - (iv) clarify whether the certifying or transferring entity has general taxing authority; and,**
  - (v) whether the certifying or transferring entity received appropriations (identify level of appropriations).**

**Response:** Payments made to service providers under the provisions of this SPA are funded through a general appropriation received by the State agency that oversees medical assistance (Medicaid), which is the Department of Health. The source of the appropriation is the Local Assistance Account under the General Fund/Aid to Localities.

3. **Section 1902(a)(30) requires that payments for services be consistent with efficiency, economy, and quality of care. Section 1903(a)(1) provides for Federal financial participation to States for expenditures for services under an approved State plan. If supplemental or enhanced payments are made, please provide the total amount for each type of supplemental or enhanced payment made to each provider type.**

**Response:** The payments authorized for this provision are not supplemental or enhanced payments.



4. **Please provide a detailed description of the methodology used by the state to estimate the upper payment limit (UPL) for each class of providers (State owned or operated, non-state government owned or operated, and privately owned or operated). Please provide a current (i.e. applicable to the current rate year) UPL demonstration. Under regulations at 42 CFR 4447.272, States are prohibited from setting payment rates for Medicaid inpatient services that exceed a reasonable estimate of the amount that would be paid under Medicare payment principals.**

**Response:** The State and CMS are in discussion to develop a strategic plan to submit the 2015 inpatient UPL demonstration.

5. **Does any governmental provider receive payments that in the aggregate (normal per diem, supplemental, enhanced, other) exceed their reasonable costs of providing services? If payments exceed the cost of services, do you recoup the excess and return the Federal share of the excess to CMS on the quarterly expenditure report?**

**Response:** The rate methodology included in the approved State Plan for institutional services is prospective payment. We are unaware of any requirement under current federal law or regulation that limits individual provider payments to their actual costs.

**ACA Assurances:**

1. **Maintenance of Effort (MOE). Under section 1902(gg) of the Social Security Act (the Act), as amended by the Affordable Care Act, as a condition of receiving any Federal payments under the Medicaid program during the MOE period indicated below, the State shall not have in effect any eligibility standards, methodologies, or procedures in its Medicaid program which are more restrictive than such eligibility provisions as in effect in its Medicaid program on March 10, 2010.**

**MOE Period.**

- **Begins on: March 10, 2010, and**
- **Ends on: The date the Secretary of the Federal Department of Health and Human Services determines an Exchange established by a State under the provisions of section 1311 of the Affordable Care Act is fully operational.**

**Response:** This SPA complies with the conditions of the MOE provision of section 1902(gg) of the Act for continued funding under the Medicaid program.

2. **Section 1905(y) and (z) of the Act provides for increased FMAPs for expenditures made on or after January 1, 2014 for individuals determined eligible under section 1902(a)(10)(A)(i)(VIII) of the Act. Under section**

1905(cc) of the Act, the increased FMAP under sections 1905(y) and (z) would not be available for States that require local political subdivisions to contribute amounts toward the non-Federal share of the State's expenditures at a greater percentage than would have been required on December 31, 2009.

**Prior to January 1, 2014** States may potentially require contributions by local political subdivisions toward the non-Federal share of the States' expenditures at percentages greater than were required on December 31, 2009. **However**, because of the provisions of section 1905(cc) of the Act, it is important to determine and document/flag any SPAs/State plans which have such greater percentages prior to the January 1, 2014 date in order to anticipate potential violations and/or appropriate corrective actions by the States and the Federal government.

**Response:** This SPA would [ ] / would not [✓] violate these provisions, if they remained in effect on or after January 1, 2014.

- 3. Please indicate whether the State is currently in conformance with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.**

**Response:** This State does comply with the requirements of section 1902(a)(37) of the Act regarding prompt payment of claims.

**Tribal Assurance:**

**Section 1902(a)(73) of the Social Security Act the Act requires a State in which one or more Indian Health Programs or Urban Indian Organizations furnish health care services to establish a process for the State Medicaid agency to seek advice on a regular ongoing basis from designees of Indian health programs whether operated by the Indian Health Service HIS Tribes or Tribal organizations under the Indian Self Determination and Education Assistance Act ISDEAA or Urban Indian Organizations under the Indian Health Care Improvement Act.**

**IHCIA Section 2107(e)(I) of the Act was also amended to apply these requirements to the Children's Health Insurance Program CHIP. Consultation is required concerning Medicaid and CHIP matters having a direct impact on Indian health programs and Urban Indian organizations.**

- a) Please describe the process the State uses to seek advice on a regular ongoing basis from federally recognized tribes Indian Health Programs and Urban Indian Organizations on matters related to Medicaid and CHIP programs and for consultation on State Plan Amendments waiver proposals waiver extensions waiver amendments waiver renewals and proposals for demonstration projects prior to submission to CMS.**

- b) Please include information about the frequency inclusiveness and process for seeking such advice.**
- c) Please describe the consultation process that occurred specifically for the development and submission of this State Plan Amendment when it occurred and who was involved.**

**Response:** Tribal consultation was performed in accordance with the State's tribal consultation policy as approved in SPA 11-06, and documentation of such is included with this submission. To date, no feedback has been received from any tribal representative in response to the proposed change in this SPA.